IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

OP.No. 6902 of 2000(V)

PETITIONERS:
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1. **A.MAMMY, S/O.M.ALIKKUTTY,AGED 56,**
   RETIRED SPECIAL GRADE EXECUTIVE ENGINEER,
   P.W.D. RESIDING AT ARAKKAL HOUSE,
   KIZHAKKEKKARA, MOOVATTUPUZHA.

2. **S.JAYAN NAIR, S/O.LATE SRI. N.SIVANKUTTY NAIR,**
   AGED 53, SPECIAL GRADE EXECUTIVE ENGINEER,
   P.W.D. (ROADS DIVISION), TRIVANDRUM,
   RESIDING AT SAFALYA, ALTHARA ROAD,
   VELLAYAMBALAM.

BY ADV. SRI.G.S.REGHUNATH
SRI.V.V.MATHEW
SRI.B.REGHUNATHAN

RESPONDENTS:
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1. **STATE OF KERALA, REP. BY THE PRINCIPAL SECRETARY**
   TO GOVERNMENT, P.W.D., GOVT. SECRETARIAT,
   TRIVANDRUM.

2. **THE CHIEF ENGINEER (ADMINISTRATION),**
   P.W.D., TRIVANDRUM.

3. **ACCOUNTANT GENERAL, TRICHUR, KERALA.**

4. **V.V.THOMAS, GENERAL SECRETARY,**
   KERALA ENGINEERING DIPLOMA HOLDERS ASSOCIATION,
   VELLAYAMBALAM, TRIVANDRUM.

BY GOVERNMENT PLEADER SMT. SMITHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 11/09/2007 ALONG WITH WPC.NO.35601 OF 2003, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

ORDER ON C.M.P.NO.11549/2000 IN O.P.NO.6902/2000 V

DISMISSED

11/09/2007` **SD/- THOTTATHIL B.RADHAKRISHNAN,JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE G.O.(MS) NO.43/96/PW&T DTD. 9/02/1996.**

EXT.P2: **COPY OF THE ORDER IN SPECIAL LEAVE TO APPEAL (CIVIL) NO.9727 OF 1997 DTD. 19/08/1997 OF THE HON'BLE SUPREME COURT.**

EXT.P3; **COPY OF THE ORDER NO.46/98/PWD DTD. 20/06/1998.**

EXT.P4: **COPY OF THE ORDER NO.610/98/PWD DTD. 27/06/1998.**

EXT.P5: **COPY OF THE G.O.(MS) NO.20/99/PWD DTD. 11/02/1999.**

EXT.P6: **COPY OF THE LETTER SENT BY THE ASST.ACCOUNTS OFFICER DTD. 27/09/1999.**

/TRUE COPY/

P.A.TO JUDGE

KSS

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.6902 OF 2000 &
WPC.No.35601 OF 2003

Dated this the 11th day of September, 2007

JUDGMENT

Petitioners in these writ petitions claim that they are among those who were promoted in terms of Exts.P3, P4 and P11 orders in W.P(C).35601/03. They contend that notwithstanding their officiating in the promoted posts, they were not given monetary benefits of such promotions, after discharging of duties and responsibilities in the promoted posts. It is, therefore, contended that their retiral benefits have not also been fixed taking into consideration the emoluments they could have drawn in the higher posts.

2. Learned Government Pleader pointed out that the aforesaid orders were on the basis of 7 tier promotion scheme, relating to which, there were litigations before this Court, which led ultimately to a Review Petition by the Government, before this Court.

3. Whatever be the contention of the Government regarding the legality or otherwise of the earlier decision of this Court and the effect of the Review, if the petitioners had, as a matter of fact, been promoted and they had actually discharged their duties and responsibilities attached to the higher posts to which they were so promoted, it cannot be disputed that they are entitled to draw the emoluments attached to those posts and that their retiral benefits have also to be determined by taking into consideration the emoluments that they would have drawn in the higher posts.

In the aforesaid circumstances, this writ petition is disposed of directing that the Chief Engineer (Administration), P.W.D., Trivandrum (second respondent in these writ petitions) will take up the individual cases of each of the petitioners and consider the question whether, following the promotion orders, the petitioners had actually officiated and worked in the posts to which they were promoted and if so, the fact that they worked as such in the promoted posts and retired from such promoted

posts shall be taken into consideration and their emoluments in the higher posts shall be released to the petitioners and their respective retiral benefits shall also be re-fixed. This exercise shall be undertaken within an outer limit of four months from the date of receipt of a copy of this judgment.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.6902/00 & WPC.35601/03

JUDGMENT

11th SEPTEMBER, 2007.

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